

State agency shall establish and maintain a data validation system pursuant to ETA instructions. The system shall review every local office at least once every four years. The system shall include the validation of time distribution reports and the review of data gathering procedures.

**§ 658.602 ETA national office responsibility.**

The ETA national office shall:

(a) Monitor ETA regional offices' carrying out of JS regulations;

(b) From time to time, conduct such special reviews and audits as necessary to monitor ETA regional office and State agency compliance with JS regulations;

(c) Offer technical assistance to the ETA regional offices and State agencies in carrying out JS regulations and programs;

(d) Have report validation surveys conducted in support of resource allocations;

(e) Develop tools and techniques for reviewing and assessing State agency performance and compliance with JS regulations.

(f) ETA shall appoint a National MSFW Monitor Advocate, who shall devote full time to the duties set forth in this subpart. The National MSFW Monitor Advocate shall:

(i) Review the effective functioning of the Regional and State MSFW Monitor Advocates;

(ii) Review the performance of State agencies in providing the full range of JS services to MSFWs;

(iii) Take steps to resolve or refer JS-related problems of MSFWs which come to his/her attention;

(iv) Take steps to refer non JS-related problems of MSFWs which come to his/her attention;

(v) Recommend to the Administrator changes in policy toward MSFWs; and

(vi) Serve as an advocate to improve services for MSFWs within JS. The National MSFW Monitor Advocate shall be a member of the National Farm Labor Coordinated Enforcement Staff Level Working Committee.

(1) The National MSFW Monitor Advocate shall be appointed by the Administrator after informing farm-worker organizations and other organi-

zations with expertise concerning MSFWs of the openings and encouraging them to refer qualified applicants to apply through the federal merit system. Among qualified candidates, determined through merit systems procedures, individuals shall be sought who meet the criteria used in the selection of the State MSFW Monitor Advocates, as provided in § 653.108(b).

(2) The National MSFW Monitor Advocate shall be assigned staff necessary to fulfill effectively all the responsibilities set forth in this subpart.

(3) The National MSFW Monitor Advocate shall submit an annual report ("Annual Report") to the Administrator, the ETA Assistant Secretary, and the National Farm Labor Coordinating Committee covering the matters set forth in this subpart.

(4) The National MSFW Monitor Advocate shall monitor and assess State agency compliance with JS regulations affecting MSFWs on a continuing basis. His/her assessment shall consider

(i) Information from Regional and State MSFW Monitor Advocates;

(ii) Program performance data, including the service indicators;

(iii) Periodic reports from regional offices;

(iv) All federal on-site reviews;

(v) Selected State on-site reviews;

(vi) Other relevant reports prepared by USES;

(vii) Information received from farm-worker organizations and employers; and

(viii) His/her personal observations from visits to State JS offices, agricultural work sites and migrant camps. In the Annual Report, the National MSFW Monitor Advocate shall include both a quantitative and qualitative analysis of his/her findings and the implementation of his/her recommendations by State and federal officials, and shall address the information obtained from all of the foregoing sources.

(5) The National MSFW Monitor Advocate shall review the activities of the State/federal monitoring system as it applies to services to MSFWs and the JS complaint system including the effectiveness of the regional monitoring function in each region and shall recommend any appropriate changes in

the operation of the system. The National MSFW Monitor Advocate's findings and recommendations shall be fully set forth in the Annual Report.

(6) If the National MSFW Monitor Advocate finds that the effectiveness of any Regional MSFW Monitor Advocate has been substantially impeded by the Regional Administrator or other Regional Office official, he/she shall, if unable to resolve such problems informally, report and recommend appropriate actions directly to the Administrator. If the National MSFW Monitor Advocate receives information that the effectiveness of any State Monitor Advocate has been substantially impeded by the State Administrator or other State or federal JS official, he/she shall, in the absence of a satisfactory informal resolution at the regional level, report and recommend appropriate actions directly to the Administrator.

(7) The National MSFW Monitor Advocate shall be informed of all proposed changes in policy and practice within USES, including JS regulations, which may affect the delivery of services to MSFWs. The National MSFW Monitor Advocate shall advise the Administrator concerning all such proposed changes which may adversely affect MSFWs. The National MSFW Monitor Advocate shall propose directly to the Administrator changes in JS policy and administration which may substantially improve the delivery of services to MSFWs. He/she shall also recommend changes in the funding of state agencies and/or adjustment or reallocation of the discretionary portions of funding formulae.

(8) The National MSFW Monitor Advocate shall participate in the review and assessment activities required in this section and § 658.700 *et seq.* As part of such participation, the National MSFW Monitor Advocate, or if he/she is unable to participate a Regional MSFW Monitor Advocate, shall accompany the National Office review team on National Office on-site reviews. The National MSFW Monitor Advocate shall engage in the following activities in the course of each State on-site review:

(i) He/she shall accompany selected outreach workers on their field visits.

(ii) He/she shall participate in a random field check[s] of migrant camps or work site[s] where MSFWs have been placed on inter or intra state clearance orders.

(iii) He/she shall contact local WIA 167 National Farmworker Jobs program organizations or other farmworker organizations as part of the on-site review, and, conduct an interview with representatives of the organizations.

(iv) He/she shall meet with the State MSFW Monitor Advocate and discuss the full range of the JS services to MSFWs, including the monitoring and complaint systems.

(9) In addition to the duties specified in paragraph (f)(8) of this section, the National MSFW Monitor Advocate each year during the harvest season shall visit the four states with the highest level of MSFW activity during the prior fiscal year, if they are not scheduled for a National Office on-site review during the current fiscal year, and shall:

(i) Meet with the State MSFW Monitor Advocate and other central office staff to discuss MSFW service delivery, and (ii) contact representatives of MSFW organizations and interested employer organizations to obtain information concerning JS service delivery and coordination with other agencies.

(10) The National MSFE Monitor Advocate shall perform the duties specified in § 658.700. As part of this function, he/she shall monitor the performance of regional offices in imposing corrective action. The National MSFW Monitor Advocate shall report any deficiencies in performance to the Administrator.

(11) The National MSFW Monitor Advocate shall establish routine and regular contacts with WIA 167 National Farmworker Jobs program organizations, other farmworker organizations and agricultural employers and/or employer organizations. He/she shall attend conferences or meetings of these groups wherever possible and shall report to the Administrator and the National Farm Labor Coordinated Enforcement Committee on these contacts when appropriate. The National MSFW Monitor Advocate shall include in the Annual Report recommendations as to how DOL might better coordinate

**§ 658.603**

JS and WIA 167 National Farmworker Jobs program services as they pertain to MSFWs.

(12) In the event that any State or Regional MSFW Monitor Advocate, enforcement agency or MSFW group refers a matter to the National MSFW Monitor Advocate which requires emergency action, he/she shall assist them in obtaining action by appropriate agencies and staff, inform the originating party of the action taken, and, upon request, provide written confirmation.

(13) Through all the mechanisms provided in this subpart, the National MSFW Monitor Advocate shall aggressively seek to ascertain and remedy, if possible, systemic deficiencies in the provisions of JS services and protections afforded by these regulations to MSFWs. The National MSFW Monitor Advocate shall:

(i) Use the regular reports on complaints submitted by State agencies and ETA regional offices to assess the adequacy of these systems and to determine the existence of systemic deficiencies.

(ii) Provide technical assistance to ETA regional office and State agency staffs for administering the JS complaint system.

(iii) Recommend to the Administrator specific instructions for action by regional office staff to correct any JS-related systemic deficiencies. Prior to any ETA review of regional office operations concerning JS services to MSFWs, the National MSFW Monitor Advocate shall provide to the Administrator a brief summary of JS-related services to MSFWs in that region and his/her recommendations for incorporation in the regional review materials as the Administrator and ETA reviewing organization deem appropriate.

(iv) Recommend to the National Farm Labor Coordinated Enforcement Committee specific instructions for action by ESA and OSHA regional office staff to correct any non-JS-related systemic deficiencies of which he/she is aware.

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**20 CFR Ch. V (4-1-10 Edition)**

**§ 658.603 ETA regional office responsibility.**

(a) The Regional Administrator shall have responsibility for the regular review and assessment of State agency performance and compliance with JS regulations.

(b) The Regional Administrator shall review and approve annual program budget plans for the State agencies within the region. In reviewing the program budget plans the Regional Administrator shall consider relevant factors including the following:

(1) State agency compliance with JS regulations;

(2) State agency performance against the goals and objectives established in the previous year's program budget plan;

(3) The effect which economic conditions and other external factors considered by the ETA in the resource allocation process may have had or are expected to have on State agency performance;

(4) State agency adherence to national program emphasis; and

(5) The adequacy and appropriateness of the program budget plan for carrying out JS programs.

(c) The Regional Administrator shall assess the overall performance of State agencies on an ongoing basis through desk reviews and the use of required reporting systems and other available information.

(d) As appropriate, Regional Administrators shall conduct or have conducted:

(1) Comprehensive on-site reviews of State agencies and their offices to review State agency organization, management, and program operations;

(2) Periodic performance reviews of State agency operation of JS programs to measure actual performance against the program budget plan, past performance, the performance of other State agencies, etc.;

(3) Audits of State agency programs to review State agency program activity and to assess whether the expenditure of grant funds has been in accordance with the approved budget. Regional Administrators may also conduct audits through other agencies or organizations or may require the State agency to have audits conducted;